

**SPRING TOWN MEETING 2023**  
**TOWN OF WALPOLE**  
**COMMONWEALTH OF MASSACHUSETTS**  
**PROPOSED ZONING ARTICLES**

**The Planning Board Public Hearing is scheduled for March 16, 2023 at 7:05 P.M. within the Main Meeting Room of Walpole Town Hall, 135 School Street, Walpole, MA**

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**ARTICLE 22:** To see if the Town will vote to amend the Zoning Bylaws, Schedule of Use Regulations Table 5-B.1.3.w, Section 5 B.2 Accessory In-Law Suites, and Section 14 Definitions as set forth below, in order to expand and provide clarity to the bylaw concerning the regulation of Accessory In-Law Suites, and to change the use from a Special Permit to By-Right within the Residence A, Residence B, and Rural Zoning Districts. Text to be deleted is ~~striketrough~~ and text to be added is underlined, or do or act anything in relation thereto. (Petition of the Select Board).

**Table of Use Regulations 5-B.1.3.w**

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
w. Accessory In-Law Suite <sup>4</sup>	SPZ <u>A</u>	SPZ <u>A</u>	A	SPZ <u>A</u>	X	X	X	X	X	X	

**Section 5-B.2. Accessory In-Law Suites:**

~~The Board of Appeals may grant a Special Permit for an “Accessory In-Law Suite” as a use accessory to an owner-occupied, single-family dwelling in all single-family residence districts, provided that the building and lot size provisions of this Section are met.~~

A. Purpose:

1. Provide an opportunity for family members who live in close proximity, but separate from other family members, to remain within the family environment;
2. Provide for the health and safety concerns of elders or disabled family members;
3. Protect the residential stability and single-family character of neighborhoods.

B. Accessory In-Law Suite Defined:

A separate dwelling unit, with a kitchen or kitchenette, located in a single-family dwelling, as an accessory and subordinate use to the residential use of the property; provided that such separate dwelling unit has been established pursuant to the provisions of this Section.

C. Ownership Requirements for Accessory In-Law Suites:

1. No Accessory In-Law Suite shall be held in separate ownership from the principal dwelling unit;
2. An Accessory In-Law Suite must be located within a single-family dwelling and the owner of the dwelling must occupy the principal dwelling unit;

3. The Accessory In-Law Suite shall only be occupied by individuals within the third degree of kinship of the owner of the principal dwelling unit;
4. The existing single-family home must have been constructed with a valid Building Permit as evidenced by a Certificate of Occupancy for the original construction of the dwelling, or, where no such Certificate is available, other such evidence of lawful occupancy as determined by the Building Commissioner;
5. The property owner of any Accessory In-Law Suite shall record with the Norfolk County Registry of Deeds a certified copy of the Decision granting the Accessory In-Law Suite and certified copies shall be filed with the Department of Inspectional Services, where a master list of Accessory In-Law Suites shall be kept; ~~and~~
6. When ownership of the property changes, the new owner shall notify the Building Commissioner so as to update the Accessory In-Law Suite List; ~~and~~
7. Under no circumstance shall the Accessory In-Law Suite be utilized as a rentable dwelling unit.

D. Requirements:

1. Minimum lot size shall be 15,000 square feet\*;
2. The Accessory In-Law Suite shall be a minimum of 250 square feet and no larger than 1,000 square feet or 33 percent of the total ~~building size~~ gross floor area within the principal dwelling unit in the dwelling, whichever is less\*;
3. Any interior space, if used to calculate minimum building size, must meet requirements set forth in the State Building Code, 780 CMR for occupancy;
4. There shall be no more than ~~two (2) exterior landings doors which may be covered and shall not exceed 50 square feet in area, and are is not within the required setbacks.~~ Stairs for the exterior doors landing shall not be located within a required setback;
5. Any proposed addition as part of this section must keep the outside appearance of a single-family house\*;
6. All dimensional requirements shall comply with the applicable Sections of this Bylaw;
7. No more than one (1) Accessory In-Law Suite shall be allowed per lot;
8. No more than one (1) water meter shall be allowed for the ~~entire dwelling property, with the exception of a water meter for the purpose of landscape irrigation,\*~~ and all utilities within the Accessory In-law Suite shall be serviced by the principal dwelling;
9. There shall be no lodgers in either the ~~original~~ principal dwelling unit or the Accessory In-Law Suite, and neither unit shall be used for business, commercial, or seasonal rentals;
10. All parking for the Accessory In-Law Suite shall be contained on site, and compliant with the applicable Sections of this Bylaw. In the event of insufficient space within the existing driveway, appropriate space for at least one (1) parking space shall be constructed on site to serve the accessory unit, and constructed of materials consistent with the existing driveway\*;
11. There shall be no more than two (2) bedrooms within the Accessory In-Law Suite; and

12. Unrestricted passage shall be maintained between the Accessory In-Law Suite and the principal dwelling unit to assure that the Accessory In-Law Suite is accessory and subordinate to the principal dwelling unit and not an independent dwelling unit.

*\*Any application that does not meet a requirement listed within Section 5-B.2.D and Requirements marked with an asterisk may ~~be altered as a condition(s) of the~~ seek a Special Permit through the Zoning Board of Appeals.*

E. Pre-Existing Units:

A pre-existing Accessory In-Law Suite in a single-family dwelling that was established with a Building Permit shall be considered a lawful use and shall not be required to meet the standards above provided the following criteria are fulfilled:

1. Proof of Existence: An owner-occupant seeking validation of an existing Accessory In-Law Suite as described herein shall have the burden of proof to demonstrate, by a preponderance of evidence, the existence of said dwelling unit. All probative documentary evidence must be submitted to the Building Commissioner. Records including, but are not limited to the following:
  - a. A valid Building Permit for the premises indicating the construction of the aforesaid second dwelling unit; and/or
  - b. Assessing Department records for the premises indicating the existence of the second dwelling unit; and/or
  - c. Permits from the Department of Inspectional Services, other than the actual building alteration permit which provided for construction of the accessory apartment, such as other Building Permits, plumbing, electrical and gas fitting permits, which explicitly indicate the existence of the second dwelling unit; and/or
  - d. A previous or current owner-occupant of the premises, providing a sworn, notarized attestation as to the existence of the Accessory In-Law Suite; and/or
  - e. Any other documentary evidence which, to the satisfaction of the Building Commissioner, is material and relevant and demonstrates the existence of the Accessory In-Law Suite before the date in which this Section takes effect.
2. Standard of Proof and Conflicting Evidence: If the documentary evidence available is conflicting, the Building Commissioner shall determine, after weighing all the evidence, if the existence of the Accessory In-Law Suite is supported by a preponderance of evidence.
3. Other Requirements: No pre-existing Accessory In-Law Suite shall be altered, extended or changed without first seeking and obtaining a Special Permit from the Zoning Board of Appeals under this Section and all rights given under a pre-existing condition will cease to exist at any change of ownership, unless a new Special Permit is granted based on the provisions of this Section.

F. Invalidity Clause: The invalidity of any provision of this Section shall not invalidate all or any other provision of this Section.

## Section 14: Definitions

ACCESSORY IN-LAW SUITE - A separate dwelling unit, with a kitchen or kitchenette, located in a single-family dwelling, as an accessory and subordinate use to the residential use of the property; provided that such separate dwelling unit has been established pursuant to the provisions of the applicable section of the bylaw

THIRD DEGREE OF KINSHIP – A person who is related as either a great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece.

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**ARTICLE 23:** To see if the Town will vote to amend the Zoning Bylaws, Section 2: Administration, Subsection 2.7 Subdivision Phasing by removing the section in its entirety, or do or act anything in relation thereto. (Petition of the Planning Board).

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**ARTICLE 24:** To see if the Town will vote to amend the Zoning Bylaws, Section 13: Site Plan Review, Subsection 13.14 Appeals as follows, to amend the appeal time frame from 30 days to 20 days. Text to be deleted is ~~striketrough~~ and text to be added is underlined, or do or act anything in relation thereto. (Petition of the Planning Board)

## Section 13: Site Plan Review

### 14. Appeals

Applicants for a Site Plan Review for projects allowed as of right may appeal any conditions approved by the Building Inspector as part of a Limited Site Plan Review or those approved by the Planning Board as part of Full Site Plan Review to the Walpole Board of Appeals within ~~thirty~~ twenty (~~30~~ 20) days after the written site plan decision has been issued.

**ARTICLE 25:** To see if the Town will vote to amend the Zoning Bylaws Table 6-B.1 Dimensional Regulations, to adjust the minimum sideyard setback and building height requirements within the Highway Business Zoning District, as follows. Text to be deleted is ~~strikethrough~~ and text to be added is underlined, or do or act anything in relation thereto. (Petition of the Planning Board).

**Table 6-B.1. Table of Dimensional Regulation**

District	Maximum Lot Coverage					Required Setbacks				Height
	Required Lot Area (square feet)	Required Lot Frontage (feet)	By Structures	By Structures & Other Impervious Surfaces	Minimum Usable Open Space (square feet)	Minimum Frontyard Setback (feet)	Maximum Frontyard Setback (feet)	Minimum Sideyard Setback (feet)	Minimum Rearyard Setback (feet)	Maximum Building Height (feet) <sup>15</sup>
Park, School, Recreation and Conservation	40,000	200	25%	40%	NA	30	na	25	30 <sup>3</sup>	35 <sup>12,14</sup>
Rural	40,000	200	25%	40%	50%	30	na	25 <sup>4</sup>	30 <sup>3</sup>	35 <sup>12,14</sup>
Residence A	30,000	150	25%	40%	50%	30	na	20 <sup>4</sup>	30 <sup>3</sup>	35
Residence B	20,000	125	25%	40%	50%	30	na	15 <sup>4</sup>	30 <sup>3</sup>	35 <sup>14</sup>
General Residence	15,000	100	30%	50%	40%	30	na	10 <sup>4</sup>	30 <sup>3</sup>	35 <sup>12,13,14</sup>
Business	15,000	100	40%	70%	NA	15 <sup>9</sup>	25	6 <sup>5</sup>	20 <sup>6</sup>	40 <sup>12,14</sup> (but not more than 3 stories)
Highway Business	40,000	200	50%	90%	NA	50 <sup>9</sup>	na	<del>40</del> <u>25</u> <sup>7</sup>	25 <sup>7</sup>	<del>45</del> <u>55</u> (but not more than <del>4</del> <u>5</u> stories)
Central Business District	5,000	50	90%	100%	NA	0	25 <sup>1</sup>	0 <sup>5</sup>	10 <sup>6</sup>	52 <sup>14</sup>
Limited Manufacturing	40,000"	200 <sup>11</sup>	35%	70%	NA	50 <sup>9</sup>	na	40 <sup>7</sup>	25 <sup>7,8</sup>	40 <sup>10</sup>
Industrial	40,000"	200 <sup>11</sup>	50%	70%	NA	25 <sup>9</sup>	na	10 <sup>7</sup>	10 <sup>7,8</sup>	40 <sup>10</sup>

**ARTICLE 26:** To see if the Town will vote to amend the Zoning Bylaws, Schedule of Use Regulations, Table 5-B.1.3.m and Table 5-B.1.3.n, as follows, in order to provide additional relief for the garaging capacity of residential vehicles. Text to be deleted is ~~strikethrough~~ and text to be added is underlined, or do or act anything in relation thereto. (Petition of the Planning Board).

**Table of Use Regulations 5-B.1.3.m and 5-B.1.3.n**

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	Parking Code
m. The garaging or maintaining on any premises of a total of not more than <del>three (3)</del> <u>four (4)</u> motor vehicles <del>and (including not more than one (1) commercial vehicle not in excess of two (2) - ton capacity),</del> except in the case of a public or agricultural use.	A	A	A	A	A	A	A	A	A	X	6
n. The garaging or maintaining of more than <del>three (3)</del> <u>four (4)</u> automobiles or of more than one (1) commercial vehicle, but only where in connection with a permitted main use on the same premises, except in the case of an agricultural use.	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	A	A	A	6

**ARTICLE 27:** To see if the Town will vote to amend the Zoning Bylaws, Schedule of Use Regulations, Table 5-B.1.3.b, as follows, in order to amend the use of a two-family detached dwelling within the General Residence Zoning District from a Special Permit requirement to by-right. Text to be deleted is ~~struckthrough~~ and text to be added is underlined, or do or act anything in relation thereto. (Petition of the Planning Board).

**Table of Use Regulations 5-B.1.3.b**

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
b. Two (2)-family detached dwelling if located on a lot having an area of at least twenty thousand (20,000) square feet and is connected to or to be connected at the time of construction with the public sewer system.	X	X	<del>SPZ</del> <u>A</u>	X	X	X	X	X	X	X	1

**ARTICLE 28:** To see if the Town will vote to amend the Zoning Bylaws, Schedule of Use Regulations, Table 5-B.1.3.c, as follows, in order to amend the use of a three-family detached dwelling within the General Residence Zoning District from a Special Permit requirement to by-right. Text to be deleted is ~~struckthrough~~ and text to be added is underlined, or do or act anything in relation thereto. (Petition of the Planning Board).

**Table of Use Regulations 5-B.1.3.c**

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
c. Three (3)-family detached dwelling if located on a lot having an area of at least thirty thousand (30,000) square feet and is connected to or to be connected at the time of construction with the public sewer system.	X	X	<del>SPZ</del> <u>A</u>	X	X	X	X	X	X	X	1

**ARTICLE 29:** To see if the Town will vote to amend the Zoning Bylaws, Schedule of Use Regulations, Table 5-B.1.3.g.i and Section 8 Parking Regulations, Table 8.3.1 Parking Code & Requirements, as follows, in order to establish a reduced parking requirement for residential developments within the Central Business District. Text to be deleted is ~~struckthrough~~ and text to be added is underlined, or do or act anything in relation thereto. (Petition of the Planning Board)

**Table of Use Regulations 5-B.1.3.g.i**

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
g. The use of a floor other than the ground floor or basement for dwelling units provided that such dwelling units are or will be connected to the public sewer at the time of construction. In a GR zone the requirements of Use Table Subsection 3.d (Dwelling for occupancy by more than three (3) families) must be met. The following conditions must also be met:	X	X	SPZ	X	X	SPZ	A	X	X	X	1
i. within CBD zones, the area used for dwelling units above the ground floor shall not exceed a gross floor area 3.5 times the total gross floor area dedicated to commercial use; and											<u>1A</u>
ii. within B zones, the area used for dwelling units above the ground floor shall not exceed a gross floor area 2.0 times the gross floor area of the ground floor.											

**Section 8 Parking Regulations, Table 8.3.1 Parking Code & Requirements**

Parking Code	Requirements
1	two (2) parking spaces for each unit accommodated on the premises.
<u>1A</u>	<u>one (1) parking space per studio &amp; one-bedroom dwelling units, one and a half (1.5) parking spaces per two-bedroom dwelling units, and two (2) parking spaces per three-bedroom dwelling units and above. Total parking counts will be rounded up to the next whole number.</u>
2	one (1) parking space for each sleeping room for single or double occupancy; or, where not divided into such rooms (as with a dormitory or ward), one space for each two (2) beds.
3	one (1) parking space for each four (4) seats; or, where benches are used, one (1) space for each eight (8) lineal feet of bench. Where no fixed seats are used, each twenty (20) square feet of public floor area shall equal one (1) seat.
4	a maximum of one (1) parking space for each two-hundred (200) square feet of gross floor area on the ground floor plus one (1) additional space for each four hundred (400) square feet of gross floor area on all other floors. or, a minimum of one (1) parking space for each five hundred (500) square feet of gross floor area on the ground floor plus one (1) additional space for each one thousand (1,000) square feet of gross floor area on all other floors.
5	one (1) parking space for each one thousand (1,000) square feet of gross floor area on all floors.
6	adequate parking spaces to accommodate, under all normal conditions, the cars of occupants, employees, members, customers, clients and visitors to the premises at the discretion of the Building Inspector or applicable Special Permit Granting Authority.

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**ARTICLE 30:** To see if the Town will vote to amend the Zoning Bylaws Section 5-D Excavation or Filing of Earth, Subsection 5-D.3 Activities Allowed and Subsection 5-D.4 Activities Requiring a Special Permit, as follows, in order to provide clarity and flexibility within the Earth Removal Bylaw. Text to be deleted is ~~struckthrough~~ and text to be added is underlined, or do or act anything in relation thereto. (Petition of the Planning Board).

## **5-D. EXCAVATION OR FILLING OF EARTH**

### **3. Activities Allowed**

The following activities shall be allowed as long as said activities comply with all other Sections of the Zoning Bylaw, all other local laws and regulations and all applicable state and federal regulations:

- A. ~~No permit will be required for excavation or filling operations which will involve~~ The excavation or filling of less than ~~one two~~ two hundred (400 200) cubic yards of earth per year for a residential use, ~~or one hundred fifty (150) cubic yards of earth over the course of one year for a non-residential use., or excavating or filling which will result in less than a one foot (1) change in grade. Said grade change shall be measured over an area not to exceed 10% of the minimum required lot area for the zoning district in which the land is located and at no point shall the change in grade exceed one foot.~~
- B. ~~Activities associated with a non-residential use that will involve~~ The excavation or filling of less than ~~one two~~ two hundred and fifty (450 250) cubic yards of earth per year for a non-residential use.
- C. Excavations or filling incidental to the construction of residential buildings for which all other permits have been issued, or installation of walks, driveways, septic systems, swimming pools, or other accessory uses to such buildings and expansion thereto, provided the quantity of materials removed shall not exceed that required to adequately install all permitted site features.
- D. Excavation in the course of normal and customary horticultural, floricultural or agricultural use of land for operation of more than five acres.
- E. Activities approved as part of any Site Plan Review application.

### **4. Activities Requiring a Special Permit**

Under the provisions of this Section of the Bylaw, the Board of Appeals may authorize a Special Permit for the following activities:

- A. Activities associated with a residential use that will involve the excavation or filling of ~~one two~~ two hundred (400 200) cubic yards of earth or more per year except those listed in Subsection 5-D.3.C above.
- B. Activities associated with a non-residential use that will involve the excavation or filling of ~~one two~~ two hundred and fifty (450 250) cubic yards of earth or more per year except for those activities listed in Subsection 5-D.3.D above.